

Nos. 22-2069, -2070, -2071, -2072

IN THE
United States Court of Appeals
FOR THE FEDERAL CIRCUIT

MASIMO CORPORATION,

Appellant,

v.

APPLE INC.,

Appellee,

APPEAL FROM THE PATENT TRIAL AND APPEAL BOARD
CASE NOS. IPR2021-00193, IPR2021-00195, IPR2021-00208, IPR2021-00209

**SECOND UNOPPOSED MOTION BY APPELLANT MASIMO
CORPORATION FOR EXTENSION TO FILE REPLY BRIEF**

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March 29, 2023

Pursuant to Federal Rule of Appellate Procedure 26(b) and Federal Circuit Rule 26(b), Appellant Masimo Corporation (“Appellant” or “Masimo”) respectfully requests an extension of time to file its reply brief. The reply brief is currently due on April 13, 2023, and Masimo seeks a 21-day extension. Based on this extension Masimo’s new date for submission of its reply brief is May 4, 2023. This is Masimo’s second request for an extension of time.

As described in the following declaration of Masimo’s counsel, Jeremiah S. Helm, there is good cause for this extension due to the fact that the attorneys involved in or contributing to this case have conflicts involving obligations including other appeals. Helm Decl. ¶ 2. The conflict with these proceedings provide good cause for an extension. *Id.* ¶¶ 1-3. Counsel for Appellee Apple Inc., has indicated that Apple does not oppose this motion. *Id.* ¶ 4.

For the foregoing reasons, Masimo respectfully requests a 21-day extension, with May 4, 2023 as the new date for submission of its reply brief.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

March 29, 2023

/s/ Jeremiah Helm
Joseph R. Re, Principal Counsel
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**DECLARATION OF JEREMIAH S. HELM IN SUPPORT OF
APPELLANT’S UNOPPOSED MOTION FOR EXTENSION OF TIME
TO FILE REPLY BRIEF**

I, Jeremiah S. Helm, declare as follows:

1. I am an attorney admitted to practice before this Court and a partner at the law firm of Knobbe, Martens, Olson & Bear, LLP (“Knobbe Martens”). I am counsel of record for Appellant Masimo Corporation (“Masimo”) in this appeal. I have personal knowledge of the facts in this declaration, and if called and sworn as a witness, could testify competently to them. I make this declaration in support of Masimo’s motion for a 21-day extension of time to file its reply brief.

2. There is good cause for the requested extension of time due to the fact that the attorneys involved in or contributing to this proceeding are also involved in the following matters:

- *Masimo Corporation and Cercacor Laboratories, Inc. v. Apple Inc.*, U.S. District Court for the Central District of California, Case No. 8:20-cv-00048-JVS
- *Masimo Corp. v. Apple Inc.*, 22-1894
- *Masimo Corp. v. Apple Inc.*, 22-1895
- *Masimo Corp. v. Apple Inc.*, 22-1972 (consolidated with 22-1973, 22-1975, 22-1976)

- *Supernus Pharms., Inc. v. Lupin Ltd., et al., C.A. No. 21-1293 (D. Del.)*
- *Gilead Sciences, Inc., et al. v. Lupin Ltd., et al., C.A. No. 21-01621 (D. Del.)*

The district court in *Masimo Corporation and Cercacor Laboratories, Inc. v. Apple Inc.*, U.S. District Court for the Central District of California, Case No. 8:20-cv-00048-JVS, recently changed the trial dates for April 2023, impacting counsel involved in or contributing to this appeal.

3. In view of the foregoing obligations including other appeals involving counsel involved in or contributing to this appeal, the requested extension of time to file Masimo's reply brief is necessary. Without an extension Masimo will suffer hardship related to the unavailability of the attorneys contributing to and/or involved with this appeal to make contributions to this case due to other obligations.

4. On March 25, 2023, counsel for Appellee Apple Inc. stated that Apple does not oppose this motion.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this March 29, 2023, at Irvine, California.

/s/ Jeremiah Helm

Jeremiah Helm

Knobbe, Martens, Olson & Bear, LLP

CERTIFICATE OF INTEREST

Counsel for Appellant Masimo Corporation certifies the following:

1. The full name of every party represented by me is:

Masimo Corporation.

2. The name of the real party-in-interest represented by me is:

Masimo Corporation.

3. All parent corporations and any publicly held companies that own more than 10 percent or more of the stock of the party represented by me are:

BlackRock Inc.

4. The name of all law firms and the partners or associates that appeared for the party in the lower tribunal or are expected to appear for the party in this court and who are not listed on the docket for the current case:

Knobbe, Martens, Olson & Bear, LLP: William R. Zimmerman and Jacob L. Peterson.

5. The case titles and numbers of any case known to be pending in this court or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal:

- Masimo Corporation v. Apple Inc., U.S. Court of Appeals for the Federal Circuit, Case No. 22-1631 (consolidated with Case Nos. 22-1632, 22-1633, 22-1634, 22-1635, 22-1636, 22-1637, 22-1638)

- Masimo Corporation v. Apple Inc., U.S. Court of Appeals for the Federal Circuit, Case No. 22-1972 (consolidated with Case Nos. 22-1973, 22-1975, 22-1976)
- Masimo Corporation and Cercacor Laboratories, Inc. v. Apple Inc., U.S. District Court for the Central District of California, Case No. 8:20-cv-00048-JVS

6. Information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees):

None.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

March 29, 2023

/s/ Jeremiah Helm

Joseph R. Re, Principal Counsel

Stephen C. Jensen

Jarom D. Kesler

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Jeremiah Helm

Attorneys for Appellant,
Masimo Corporation

CERTIFICATE OF COMPLIANCE

1. This motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A). The motion contains 172 words, excluding the accompanying documents exempted by Fed. R. App. P. 27(d)(2) and Fed. Cir. R. 27(d).

2. This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6). This brief has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point font Times New Roman.

KNOBBE, MARTENS, OLSON & BEAR, LLP

March 29, 2023

/s/ Jeremiah Helm

Jeremiah S. Helm

*Attorneys for Appellant
Masimo Corporation*

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